

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

STEPHEN JONES, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	No. 4:15-cv-21-HSM-SKL
v.)	
)	
G. RONNIE GUNTER, <i>et al.</i> ,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Before the Court are the Amended Application [Doc. 8] to Proceed *In Forma Pauperis* filed by *pro se* Plaintiff Gary Jones (the “Gary Jones Application”), as well as an Application [Doc. 3] and an Amended Application [Doc. 7] to Proceed *In Forma Pauperis* filed by *pro se* Plaintiff Stephen Jones (collectively, the “Stephen Jones Application”). Plaintiffs’ amendments were timely filed in compliance with the Court’s previous Order [Doc. 6] granting Plaintiffs 30 days to amend their original Applications to correct certain deficits. Plaintiffs’ Complaint alleges violations of their due process rights under the Fourteenth Amendment of the United States Constitution, violations of their due process rights under the Tennessee Constitution, breach of fiduciary trust, fraudulent misrepresentation, fraudulent concealment, and embezzlement [Doc. 1 at Page ID # 2].

Plaintiff Gary Jones submitted a long form application estimating monthly living expenses of \$2,672.17 [Doc. 8 at Page ID # 72]. He estimates that he has gross income from his employment of \$4,000.00 per month, from which he nets approximately \$3,225.00 per month [*id.* at Page ID # 67]. He received an inheritance of \$2,147.00 within the past 12 months [*id.* at Page ID # 68]. His wife, who is retired, also lives in his household and receives monthly income

of approximately \$1,300.00 from Social Security [Doc. 8 at Page ID # 73 (incorporating by reference the spousal information [Doc. 2 at Page ID # 36] in the original, unsigned, application)]. I **FIND** that Plaintiff Gary Jones has sufficient funds to pay the Court's filing fee.

Plaintiff Stephen Jones submitted a long form application in which he indicated he is a disabled veteran who has not been employed since November 2009 [Doc. 3 at Page ID # 40]. He estimates monthly living expenses of \$3,300.00, including \$1,000.00 for medical aid and attendance [Doc. 3 at Page ID # 47; Doc. 7 at Page ID # 61]. He states that he receives monthly income of \$3,017.60 from the Department of Veterans Affairs and \$901.40 from the Social Security Administration [Doc. 7 at Page ID # 61]. He received an inheritance of \$900.00 within the past 12 months [*id.*]. His 22-year-old son is a student who lives with him without any income of his own [Doc. 3 at Page ID # 46]. I **FIND** that Plaintiff Stephen Jones has sufficient funds to pay the Court's filing fee.

Accordingly, I **RECOMMEND**¹ that the Gary Jones Application [Docs. 2, 8] and the Stephen Jones Application [Docs. 3, 7] be denied and that they be jointly assessed the \$400.00 filing fee. I further **RECOMMEND**, however, that Plaintiffs be permitted to pay the \$400.00 filing fee in five monthly installments of \$80.00, and that their Complaint be filed upon receipt of the first such installment, with Plaintiffs providing for service of the Complaint at their own expense. Plaintiffs are reminded that neither a ruling on an application to proceed *in forma*

¹ Any objections to this report and recommendation must be served and filed within fourteen (14) days after service of a copy of this recommended disposition on the objecting party. Such objections must conform to the requirements of Rule 72(b) of the Federal Rules of Civil Procedure. Failure to file objections within the time specified waives the right to appeal the district court's order. *Thomas v. Arn*, 474 U.S. 140, 149 & n.7 (1985). The district court need not provide *de novo* review where objections to this report and recommendation are frivolous, conclusive and general. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986). Only specific objections are reserved for appellate review. *Smith v. Detroit Fed'n of Teachers*, 829 F.2d 1370, 1373 (6th Cir. 1987).

pauperis nor the payment of any filing fees is any assurance that Plaintiffs' Complaint states a viable claim in federal court.

s/ Susan K. Lee

SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE